

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNIVERSITY OF PITTSBURGH OF THE  
COMMONWEALTH SYSTEM OF HIGHER  
EDUCATION d/b/a UNIVERSITY OF  
PITTSBURGH, a Pennsylvania non-profit  
corporation (educational),

Plaintiff,

v.

VARIAN MEDICAL SYSTEMS, INC., a  
Delaware corporation,

Defendant.

No. C-08-2973 MMC

**ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANT'S  
ADMINISTRATIVE MOTION TO FILE  
EXHIBITS UNDER SEAL**

Before the Court is defendant's Administrative Motion, filed July 2, 2008, to file under seal Exhibits A through X to the "Sealed Declaration of Matthew H. Poppe," filed in support of defendant's motion to transfer the instant action to the Western District of Pennsylvania.

On July 17, 2008, defendant filed, in support of its Administrative Motion, a Supplemental Declaration of Matthew H. Poppe, in which defendant identifies the entity or individual by whom each such exhibit was designated as confidential. Specifically, defendant states that: (1) Exhibits A through D, and Exhibits F, G, and R through W were designated as confidential by plaintiff; (2) Exhibits D, E, and H through Q were designated as confidential by non-party Carnegie Mellon University ("CMU"); (3) Exhibit F was

1 designated as confidential by non-party Eckert Seamans Cherin & Mellott, LLC ("Eckert  
2 Seamans"); and (4) Exhibit X was inadvertently submitted for filing under seal rather than  
3 filed in the public record.<sup>1</sup>

4       Thereafter, on July 22, 2008, plaintiff filed the Declaration of Rita E. Tautkus in  
5 support of plaintiff's designation as confidential of Exhibit S and portions of Exhibits R and  
6 W. By such declaration, plaintiff withdrew its designation as confidential of Exhibits A  
7 through Q, Exhibits T through V, and Exhibit X. Additionally, plaintiff represents therein that  
8 non-party CMU has withdrawn its designation as confidential of Exhibits D, E, and H  
9 through Q, and that non-party Eckert Seamans has withdrawn its designation as  
10 confidential of Exhibit F. At the same time, plaintiff filed redacted versions of Exhibits R  
11 and W in the public record, as Exhibits E and C, respectively, to the "Declaration of Rita E.  
12 Tautkus in Response to July 16, 2008 Court Order Re: Administrative Motions to Seal  
13 Documents."

14       Having reviewed the Administrative Motion, and the declarations filed in support  
15 thereof, the Court finds the entirety of Exhibit S, pages 49:13-53:25 of Exhibit R, and page  
16 7:9 of Exhibit W consist of sealable material, and that the designating parties have  
17 withdrawn the designation of confidentiality with respect to the other subject exhibits and  
18 the remaining portions of Exhibits R and W.

19       Accordingly,

20       1. The Administrative Motion is GRANTED with respect to Exhibit S and the above-  
21 referenced portions of Exhibits R and W to the Sealed Declaration of Matthew H. Poppe,  
22 and the Clerk is directed to file said exhibits under seal.

23       2. The Administrative Motion is DENIED with respect to Exhibits A through Q and  
24 Exhibits T through V, and defendant is hereby DIRECTED to file said exhibits in the public  
25 record no later than August 22, 2008. If defendant fails to timely file said exhibits in the  
26 public record, the Court will not consider them in ruling on defendant's motion to transfer.


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27       <sup>1</sup> Defendant has filed Exhibit X in the public record, as Exhibit D to the Supplemental  
28 Declaration of Matthew H. Poppe.

1           3. The Administrative Motion is DENIED as moot with respect to Exhibits X and the  
2 unredacted portions of Exhibits R and W, for the reason that said exhibits have been filed in  
3 the public record.

4           **IT IS SO ORDERED.**

5           Dated: August 19, 2008

  
MAXINE M. CHESNEY  
United States District Judge